

COMMISSIONERS
JEFF HATCH-MILLER - Chairman
WILLIAM A. MUNDELL
MIKE GLEASON
KRISTIN K. MAYES
BARRY WONG

OPEN MEETING ITEM



ORIGINAL



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BRIAN C. MCNEIL
Executive Director

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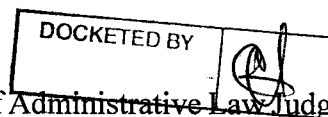
ARIZONA CORPORATION COMMISSION

DATE: OCTOBER 19, 2006

DOCKET NO: T-03973A-05-0591

TO ALL PARTIES:

Arizona Corporation Commission
DOCKETED
OCT 19 2006



Enclosed please find the recommendation of Administrative Law Judge Amy Bjelland. The recommendation has been filed in the form of an Order on:

VIVO COMMUNICATIONS-AZ, LLC
(CANCEL CC&N)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and ten (10) copies of the exceptions with the Commission's Docket Control at the address listed below by 4:00 p.m. on or before:

OCTOBER 30, 2006

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Working Session and Open Meeting to be held on:

NOVEMBER 21, 2006 and NOVEMBER 22, 2006

For more information, you may contact Docket Control at (602)542-3477 or the Hearing Division at (602)542-4250. For information about the Open Meeting, contact the Executive Secretary's Office at (602) 542-3931.

BRIAN C. McNEIL
EXECUTIVE DIRECTOR

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AZ CORP COMMISSION
DOCUMENT CONTROL

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 **COMMISSIONERS**

3 JEFF HATCH-MILLER, Chairman
4 WILLIAM A. MUNDELL
5 MIKE GLEASON
6 KRISTIN K. MAYES
7 BARRY WONG

8 IN THE MATTER OF THE APPLICATION OF
9 VIVO COMMUNICATIONS-AZ, LLC FOR
10 CANCELLATION OF ITS CERTIFICATE OF
11 CONVENIENCE AND NECESSITY TO PROVIDE
12 FACILITIES-BASED AND RESOLD LOCAL
13 EXCHANGE SERVICES.

DOCKET NO. T-03973A-05-0591

DECISION NO. _____

ORDER

14 Open Meeting
15 November 21 and 22, 2006
16 Phoenix, Arizona

17 **BY THE COMMISSION:**

18 * * * * *

19 Having considered the entire record herein and being fully advised in the premises, the
20 Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

21 **FINDINGS OF FACT**

22 1. In Decision No. 63923 (August 6, 2001), the Arizona Corporation Commission
23 ("Commission") granted Vivo Communications-AZ, LLC ("Vivo" or "Applicant") a Certificate of
24 Convenience and Necessity ("Certificate") to provide competitive facilities-based and resold local
25 exchange, interexchange and exchange access services in Arizona.

26 2. On August 15, 2005, Vivo filed an application for cancellation of its Certificate. The
27 application stated that Vivo has no customers and does not hold deposits.

28 3. On August 29, 2006, the Commission's Utilities Division ("Staff") issued a Letter of
Insufficiency and First Set of Data Requests to Vivo. Also on that date, a Procedural Order was
issued requesting an update from Staff regarding the status of the application by September 29, 2006.

4. On September 29, 2006, Staff filed its Staff Report in this matter recommending
approval of Applicant's request to cancel its Certificate.

5. Staff indicated that Vivo was contacted by phone and that Mr. Robert Timothy Sefton, President, stated that Vivo never provided telecommunication services as authorized in Decision No. 63923, nor collected advances, deposits or prepayments.

6. Vivo never conducted business in Arizona, nor collected advances, deposits and/or prepayments; therefore, the notice requirement of A.A.C. R14-2-1107(B) should be waived under the unique circumstances of this case. Absent the unique facts presented in this case, we will strictly enforce the requirements set forth in A.A.C. R14-2-1107.

7. Staff stated that according to the Commission's Consumer Services Section, there have been no complaints or inquiries for Vivo. Therefore, Staff recommended that Vivo's request for cancellation of its Certificate be approved.

CONCLUSIONS OF LAW

1. Applicant is a public service corporation within the meaning of Article XV of the Arizona Constitution and A.R.S. §§ 40-281 and 40-282.

3. The Commission has jurisdiction over Applicant and the subject matter of the application.

4. Staff's recommendations are reasonable and should be adopted.

5. The notice requirement of A.A.C. R14-2-1107(B) should be waived, under the unique circumstances of this case.

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ORDER

IT IS THEREFORE ORDERED that the Certificate of Convenience and Necessity granted to Vivo Communications-AZ, LLC in Decision No. 63923 shall be, and hereby is, cancelled.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

CHAIRMAN

COMMISSIONER

COMMISSIONER

COMMISSIONER

COMMISSIONER

IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive Director of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this ____ day of _____, 2006.

BRIAN C. McNEIL
EXECUTIVE DIRECTOR

DISSENT _____

DISSENT _____

1 SERVICE LIST FOR: VIVO-AZ
2 DOCKET NO.: T-03973A-05-0591

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4 Robert Timothy Sefton
300 E. Maple Road, Ste. 270
5 Birmingham, MI 48009

6 Christopher Kempley, Chief Counsel
Legal Division
7 ARIZONA CORPORATION COMMISSION
1200 West Washington Street
8 Phoenix, AZ 85007

9 Ernest G. Johnson, Director
Utilities Division
10 ARIZONA CORPORATION COMMISSION
1200 West Washington
11 Phoenix, AZ 85007

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